



Mount Vernon

City of Mount Vernon

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Richard K. Mavis
Mayor

City Council

Bruce E. Hawkins
President

Sam Barone
First Ward

John Francis
Second Ward

Nancy R. Vail
Third Ward

Jeff Gottke
Fourth Ward

Janis Seavolt
At Large

Christopher Menapace
At Large

Matt Starr
At Large

Administration

Richard K. Mavis
Mayor

Joel Daniels
Safety Service Director

P. Robert Broeren, Jr.
Law Director

John Thatcher
Judge

Bud Krutsch
Treasurer

Terry L. Scott
Auditor

Tanya Newell
Clerk of Council

Lindsay Hoar
Assistant Clerk of Council

September 13, 2018

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, District of Columbia 20554

RE: Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84; Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79

Dear Ms. Dortch,

The City of Mount Vernon writes to express its concerns about the Federal Communications Commission's proposed Declaratory Ruling and Third Report and Order regarding state and local governance of small cell wireless infrastructure deployment. Our city of 17,000 has 96 miles of roadway maintained by a street department staff of nine (9). Any issues created by outside forces create a major problem for our city.

While we appreciate the Commission's efforts to engage with local governments on this issue and share the Commission's goal of ensuring the growth of cutting-edge broadband services for all Americans, we remain deeply concerned about several provisions of this proposal. Local governments have an important responsibility to protect the health, safety and welfare of residents, and we are concerned that these preemption measures compromise that traditional authority and expose wireless infrastructure providers to unnecessary liability.

- **The FCC's proposed new collocation shot clock category is too extreme.** The proposal designates any preexisting structure, regardless of its design or suitability for attaching wireless equipment, as eligible for this new expedited 60-day shot clock. When paired with the FCC's previous decision exempting small wireless facilities from federal historic and environmental review, this places an unreasonable burden on local governments to prevent historic preservation, environmental, or safety harms to the community. The addition of up to three cubic feet of antenna and 28 cubic feet of additional equipment to a structure not originally designed to carry that equipment is substantial and may necessitate more review than the FCC has allowed in its proposal. Our city has limited resources in our engineer department regarding inspection and oversight.
- **The FCC's proposed definition of "effective prohibition" is overly broad.** The draft report and order proposes a definition of "effective prohibition" that invites challenges to long-standing local rights of way requirements unless they meet a subjective and unclear set of guidelines. While the Commission



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may have intended to preserve local review, this framing and definition of effective prohibition opens local governments to the likelihood of more, not less, conflict and litigation over requirements for aesthetics, spacing, and undergrounding. Like most cities, our Law Director's office is understaffed and underfunded.

- **The FCC's proposed recurring fee structure is an unreasonable overreach that will harm local policy innovation.** We disagree with the FCC's interpretation of "fair and reasonable compensation" as meaning approximately \$270 per small cell site. Local governments share the federal government's goal of ensuring affordable broadband access for every American, regardless of their income level or address. That is why many cities have worked to negotiate fair deals with wireless providers, which may exceed that number or provide additional benefits to the community. Additionally, the Commission has moved away from rate regulation in recent years. Why does it see fit to so narrowly dictate the rates charged by municipalities? Our budget crunch began in 2008 and has only gotten worse over the last 10 years. We were unable to fill vacant staff positions and deferred maintenance and projects until finally going to the voters last year with an income tax increase. Revenue from any source is necessary.

Our city has worked with private business to build the best broadband infrastructure possible for our residents. We oppose this effort to restrict local authority and stymie local innovation, while limiting the obligations providers have to our community. We urge you to oppose this declaratory ruling and report and order.

Respectfully submitted,

Richard K. Mavis, Mayor
City of Mount Vernon